

Remarks

This is in response to the action of December 18, 2002, and further is in response to the remarks made by the examiner in the telephone interview of June 17, 2003.

The application currently contains two independent claims, claims 1 and 23. With respect to claim 1, the examiner maintains that the claims are obvious under 35 U.S.C. §103 over the combination of Peppel, Sehr and Pearson, basically for the reasons set forth in the initial office action of February 19, 2002. Applicant has carefully studied the examiner's remarks in that action and the examiner's "response to arguments" in paragraph 2 of the final action of December 18, 2002, particularly the material in columns 5-8 of Peppel and the specific teaching regarding "platform independence" at col. 5, line 40, referred to several times by the examiner in his actions.

The on-line, internet capability taught in Peppel is related to the "browsing, trading, buying, selling, auctioning, collecting and creation of ETCs" as opposed to the actual playing of a video game, i.e. Peppel is basically trading card related, not video game related. Peppel mentions that the ETCs can be used in various video games, including adventure games, but there is no disclosed website structure in Peppel or any of the references which connects to the local video game to support the structure and operation of the local video game. In applicant's system the remote internet processor first verifies that the players of particular local video game have the right to use an identified card in the playing of that particular video game. The examiner has in fact acknowledged that Peppel has no teaching with respect to that structure/functionality of applicant's invention.

Relative to Sehr, the examiner states that the computer "further includes security means such as cryptographic schemes, 'digital signatures' and authenticity codes, to protect the system cardholders and card contents against fraudulent use". There is no teaching or suggestion in Sehr, however, nor any of the other references, of verifying that a particular player has the right to use an identified card to play a particular video game. This is a quite different structure and function than merely using an authenticity code or similar device for verifying the ownership of a card, is taught by Sehr. In the present invention, the player must

have the right to use an identified card to play a particular video game. A player may have ownership of a particular card, but not the right to use it in a particular game. In applicant's invention, the processor at the website has this structure/function. None of the references having such a teaching.

Further, the website includes means for storing and downloading information concerning characters on the trading cards used in the video game to the control system of the video game. Again, applicant does not see any teaching in Peppel or Sehr or Pearson concerning trading card character information stored at the website and then downloaded into the control system of the local video game following identification and verification of the trading card.

Hence, there are substantial differences between claim 1 and the combination of references. Accordingly, claim 1 is patentable over the references.

Also, please note the subject matter of claim 11. There is no teaching of a video game capable of accepting replica (facsimile) trading cards, where the processor at the website verifies the ownership of the associated genuine card. Hence, claim 11 includes patentable subject matter relative to the cited references, individually or in combination.

With respect to claim 23, applicant made the argument in the amendment of July 19, 2002, that none of the references, either singly or in combination, disclosed a system where the video game display, the control system for the video game and a card reader are combined into a single, hand-held unit, such as in a hand-held device or a cell phone-like arrangement. As pointed out in that amendment, the combining of the above key elements of a video game into a single unit makes possible a device which is easy to transport, but still retains the flexibility and capability of a video game using trading cards, instead of the more conventional hand-held games, in which the game data is all contained in the memory of the device. Further evidence of the nonobviousness of that combination is set forth on pages 5 and 6 of that amendment.

The examiner did not respond specifically to the issue of the three key video game elements being in a single, stand-alone device. The examiner's comments with respect to those elements being "separate elements" with a reference to "media platform independence" in Peppel is frankly not understood as being responsive to the

fundamental argument that combining the three specified elements of a video game in a single, stand-alone video game device is patentable over the references, either singly or in combination. Claim 23 is thus allowable over the combination of references.

In view of the above, allowance of the application is respectfully requested.

Respectfully submitted,  
JENSEN & PUNTIGAM, P.S.

By Clark A. Puntigam  
Clark A. Puntigam, #25,763  
Attorney for Applicant

CAP:gh  
206 448-3200

Enclosures: Postcard